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EXAMINER	
PARSLEY, DAVID J	

ART UNIT	PAPER NUMBER
3643	

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/705,971	VAN DEN NIEUWELAAR ET AL.	
	Examiner	Art Unit	
	David J Parsley	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 August 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-59* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-59* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *03 November 2000* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 8-17-04 and this action is final.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 9, 12-13, 15-16, 24-25, 31-36, 41-42, 45-46, 53-54 and 59 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,569,067 to Meyn.

Referring to claims 1 and 31, Meyn discloses a device for processing slaughtered animals or parts thereof, having a first station and a second station comprising, a transfer conveyor – at 5,7-10, which extends between the first station and the second station and which comprises at least one substantially stationary slot – 5 with a width a course, a supply end – proximate 1 and a discharge end, which at least one slot – 5 comprises a first opening at the supply end of the slot and a second opening at the discharge end of the slot, wherein the slot – 5 is designed to carry and support the slaughtered animals or parts thereof – see for example figures 1-8 and columns

1-6. Meyn further discloses supply means – at the end of items 1-3 proximate item 5 and/or items 11, 16, for supplying at the first station slaughtered animals or parts thereof from a first conveyor – at 1-3 to the at least one slot of the transfer conveyor, wherein the supply means are adapted to control which slaughtered animals or parts thereof from the group of slaughtered animals or parts thereof from the group of slaughtered animals or parts on the first conveyor are supplied into the slot and which slaughtered animals or parts thereof from the group of slaughtered animals or parts on the first conveyor are not supplied into the slot – see for example figure 1, column 3 lines 64-67 and column 4 lines 1-19, and a discharge means for discharging the slaughtered animals or parts thereof from the at least one slot of the transfer conveyor at the second station, wherein the discharge means are controlled by discharge control means – the automatic controls of the device or the discharge means as described in column 6 lines 24-28, to discharge the slaughtered animals or parts from the at least one slot at a controllable rate which is independent from the rate which the slaughtered animals or parts thereof are supplied to the at least one slot – see for example figures 1-8 and column 6. Meyn further discloses at least one driving member – 10, which passes through a path which is substantially parallel to the course of the at least one slot – 5 along the at least one slot from the first station towards the second station, wherein the at least one driving member spans at least half the width of the at least one slot – see for example figures 1-8.

Referring to claims 2 and 32, Meyn discloses the at least one driving member – 10 can adopt a first position and a second position, in which the slaughtered animals or parts thereof can and cannot respectively be moved from the first station towards the second station – see for example figures 1-8 and columns 1-6.

Referring to claims 3 and 33, Meyn discloses the at least one driving member – 10 can rotate about an axis – at 7 which is substantially perpendicular to the path covered by the at least one driving member – 10-11.

Referring to claims 4 and 34, Meyn discloses the at least one driving member comprises one arm – 10 which is designed to transmit the movement of the at least one driving member to the slaughtered animals or parts thereof.

Referring to claims 5 and 35, Meyn discloses force means – at 13,14 and 17 which exert a force on the at least one driving member at - 16, which force opposes the movement of the at least one driving member from the first position to the second position – see for example figures 1-8.

Referring to claims 6 and 36, Meyn discloses the force means comprise a spring means – at 17.

Referring to claim 9, Meyn the discharge means are designed to selectively discharge the slaughtered animals or parts thereof from the at least one slot – see for example figures 1-8 and columns 1-6.

Referring to claims 12 and 41, Meyn discloses the supply means and/or discharge means comprises at least one disc – 25 which is driven in rotation and is designed to supply or remove the slaughtered animals or parts thereof one by one to or from the at least one slot – 5, and which is provided on its circumference with at least one holding slot – at 26 which opens out on the outer circumference of the at least one rotatably driven disc and is designed to carry and support at least one slaughtered animal or part of a slaughtered animal – see for example figures 1-8.

Referring to claims 13 and 42, Meyn discloses the rotatably driven disc – 25 has at least two holding slots – at 26 – see for example figures 1-8.

Referring to claims 15 and 44, Meyn discloses the at least one slot – 5 extends substantially in a horizontal plane.

Referring to claims 16 and 45, Meyn discloses the at least one slot – 5 has a substantially curved course – see figure 1.

Referring to claims 24 and 53, Meyn discloses a processing device – 18-19, 23-24 and 27 is provided along the course of the at least one slot – 5 for processing the slaughtered animals or parts thereof.

Referring to claims 25 and 54, Meyn discloses the processing device comprises at least one frictional surface which is arranged along the at least one slot – 5 and is designed to act on part of the slaughtered animals or parts thereof.

Referring to claim 59, Meyn discloses a device for processing a slaughtered animal or part thereof, having a first – at 13-17 or 18-19 or 20-21, and a second station – at 23-24, comprising, a conveyor – at 6-10, which extends between the first station and the second station and which comprises at least one substantially stationary slot – at 5, with a width a course a supply end – proximate 11 and a discharge end proximate 23-24 – see figure 1, which at least one slot comprises a first opening at the supply end of the slot and a second opening at the discharge end of the slot, wherein the slot is designed to carry and support the slaughtered animal or part thereof – see for example figure 1, supply means – at 1-3, for supplying at the first station the slaughtered animal or part thereof in the at least one slot of the conveyor – see for example figure 1, discharge means – at 25,26 or as described in column 6 lines 24-28, for discharging the

slaughtered animal or part thereof form the at least one slot in the conveyor, wherein the discharge means are located between the first and the second station – see for example figure 1, and wherein the discharge means are controllable, allowing the discharge means to controllably adopt a first position wherein the slaughtered animal or part thereof is conveyed in the slot toward the second opening and allowing the discharge means to controllably adopt a second position wherein the slaughtered animal or part thereof is removed from the slot – see for example figures 1 and 7-8, and at least one driving member – at 10-11 which passes through a path which is substantially parallel to the course of the at least one slot – 5 along the at least one slot from the first station towards the second station, wherein the at least one driving member spans at least half the width of the at least one slot – see for example figures 1-8.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 7-8, 18, 21-23, 37-38, 47 and 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyn as applied to claims 1, 5, 31 and 35 above, and further in view of U.S. Patent No. 4,813,101 to Brakels et al.

Referring to claims 7 and 37, Meyn does not disclose the force means comprise a controllable piston-cylinder device. Brakels et al. does disclose the force means comprise a

controllable piston-cylinder device – at 44 and 50. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Meyn and add the force means comprising a piston-cylinder device of Brakels et al., so as to make the device automatic and easily controllable.

Referring to claims 8 and 38, Meyn as modified by Brakels et al. further discloses the piston/cylinder device – at 44 and 50 can make the at least one driving member – at 34a-34j adopt any desired position between the first position and the second position – see for example figures 2-3 and columns 3-6 of Brakels et al. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Meyn as modified by Brakels et al. and further add the piston/cylinder causing the driving member to adopt any position of Brakels et al., so as to make the device more flexible and adaptable in that it can be used to place the driving members in any position along the processing path.

Referring to claims 18 and 47, Meyn does not disclose an unloading device is provided inside the slot. Brakels et al. does disclose an unloading device – at 42 and 48 is provided inside the slot – see for example figures 1-8. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Meyn and add the unloading device inside the slot of Brakels et al., so as to allow for a quick and efficient unloading of the slaughtered animals from the device.

Referring to claims 21 and 50, Meyn does not disclose unloading-control means are provided for controlling the unloading device. Brakels et al. does disclose unloading-control means are provided for controlling the unloading device at 42 and 48 – see for example columns 3-6. Therefore it would have been obvious to one of ordinary skill in the art to take the device of

Meyn and add the control means of Brakels et al., so as to automate the device to make it more efficient and quicker.

Referring to claims 22-23 and 51-52, Brakels et al. discloses a weighing device – 9 in a different location than the applicant. This does not create a patentable distinction. It would have been obvious to one of ordinary skill in the art to simply move the weighing means from one location to another. See *In re Japikse*, 181 F.2d 1019, 1023, 86 USPQ 70, 73 (CCPA 1950).

Brakels further discloses a weighing and grading station on a poultry transfer device that transmits data to eject the poultry based on the data gained – see column 3 lines 23-35. It would have been obvious to one of ordinary skill in the art to include the weighing and ejection stations of Brakels et al. with the device of Meyn to enable the sorting of poultry at the transfer stage.

Claims 10-13 and 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyn as applied to claims 1, 9 and 31 above, and further in view of U.S. Patent No. 5,453,045 to Hobbel et al.

Referring to claims 10 and 39, Meyn does not disclose the supply means comprise a switching mechanism which can be moved into a first switched position and a second switched position, in which the slaughtered animals or parts thereof are and are not respectively supplied to at least one slot. Hobbel et al. does disclose the supply means – at 11 and 14 comprise a switching mechanism, which can be moved into a first switched position and a second switched position, in which the slaughtered animals or parts thereof are and are not respectively supplied to at least one slot – see for example columns 1-10. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Meyn and add the supply means with first and

second switched positions of Hobbel et al., so as to automate the device so as to make the process quicker and more efficient.

Referring to claims 11 and 40, Meyn does not disclose the supply means and/or the discharge means are controlled by supply-control means on the basis of data relating to the slaughtered animals or parts thereof to be transferred. Hobbel et al. does disclose the supply means and/or the discharge means are controlled by supply-control means on the basis of data relating to the slaughtered animals or parts thereof to be transferred – see for example columns 1-10. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Meyn and add the supply and discharge controlled by data relating to the slaughtered animal of Hobbel et al., so as to make the device quicker and more efficient in that it can function and be controlled in relation to the slaughtered animals.

Referring to claims 12 and 41, Hobbel et al. further discloses the supply means – at 14 and the discharge means – at 19 comprise at least one disc which is driven in rotation and is designed to supply or remove the slaughtered animals or parts thereof one by one to or from the at least one slot and which is provided on its circumference with at least one holding slot which opens out on the outer circumference with at least one holding slot which opens out on the outer circumference of the at least one rotatably driven disc and is designed to carry and support at least one slaughtered animal or part of a slaughtered animal – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Meyn and add the rotatably driven supply and/or discharge discs of Hobbel et al., so as to allow for quick sequential loading and discharge of the slaughtered animals while keeping the device compact taking up a smaller area in the processing plant.

Referring to claims 13 and 42, Hobbel et al. further discloses the rotatably driven discs – at 14 and 19 have at least two holding slots – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Meyn and add the discs having at least two holding slots of Hobbel et al., so as to allow for the device to process more carcasses quicker.

Claims 14 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyn or Meyn as modified by Hobbel et al. as applied to claims 12 and 41 above, and further in view of EP Patent No. 819382 to Bos et al. Meyn and Hobbel et al. further disclose the at least one rotatably driven disc – 25 of Meyn and – 19 of Hobbel et al. of the discharge means transfers the slaughtered animals or parts thereof. Meyn and Hobbel et al. do not disclose the discharge means transfers the slaughtered animals into a stationary waiting slot. Bos et al. does disclose the discharge means – at 46,48,52,54 transfers the slaughtered animals or parts thereof into a stationary waiting slot – 30 – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Meyn or Meyn as modified by Hobbel et al. and add the discharge means transferring the slaughtered animal into a stationary slot of Bos et al., so as to allow for a smooth transition after the discharge means in that the slot is stationary and not moving with respect to the discharge means.

Claims 17 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyn as applied to claims 1 and 31 above, and further in view of Bos et al. Meyn does not disclose the at least one slot has a substantially straight course. Bos et al. does disclose the at least one slot – at 12 has a substantially straight course – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Meyn and add the slot being

straight of Bos et al., so as to allow for the slaughtered animals to be transferred along the slot more efficiently in that it is less likely that the slaughtered animal gets snagged along the slot.

Claims 19-20 and 48-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyn as modified by Brakels et al. as applied to claims 18 and 47 above, and further in view of U.S. Patent No. 6,254,472 to Meyn.

Referring to claims 19 and 48, Meyn '067 as modified by Brakels et al. does not disclose the unloading device is designed to locally widen the at least one slot. Meyn '472 does disclose the unloading device at – 18, 25 and 19,26 is designed to locally widen the at least one slot – see for example figure 1 and columns 4-5. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Meyn'067 as modified by Brakels et al. and add the unloading device designed to locally widen the at least one slot of Meyn '472, so as to allow for quick and efficient unloading of the slaughtered animal by using automatic controls.

Referring to claims 20 and 49, Meyn '067 as modified by Brakels et al. and Meyn '472 further discloses the unloading device – at 18,25 and 19,26 comprises defines a section – 25 and 26 which defines a section of the at least one slot and can move substantially transversely with respect to the course of the slot, for locally increasing the width of the slot – see for example figure 1 and columns 4-5 of Meyn '472. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Meyn '067 as modified by Brakels et al. and Meyn '472 and add the section of Meyn '472, so as to allow for quick and efficient unloading of the slaughtered animal by using automatic controls.

Claims 26-29 and 55-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyn '067 as applied to claims 25 and 54 above, and further in view of Meyn '472.

Referring to claims 26 and 55, Meyn '067 does not disclose the frictional device forms part of a driven conveyor belt. Meyn '472 does disclose the frictional device is a conveyor belt – 1-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Meyn '067 and add the frictional device forming a conveyor belt of Meyn '472, so as to affect quick and accurate movement of the slaughtered animals.

Referring to claims 27 and 56, Meyn ' 067 does not disclose two conveyor belts on either side of the slot for clamping the slaughtered animal. Meyn '472 does disclose two conveyor belts – 1-2 and 3-4 on either side of the slot for clamping the slaughtered animal – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Meyn '067 and add the frictional device forming twos conveyor belts of Meyn '472, so as to affect quick and accurate movement of the slaughtered animals.

Referring to claims 28 and 57, Meyn '067 does not disclose two conveyors arranged one behind the other along the at least one slot. Meyn '472 further discloses two driven conveyors – at 1-4 and the hanging conveyor – see columns 1-5, which are arranged one behind the other along the at least one slot – see for example figure 1 and columns 1-5. Meyn '472 does not disclose the overhead conveyor comprises a conveyor belt but it would have been an obvious matter of design choice to modify the device of Meyn '472 to include a belt on the overhead conveyor to affect motion of the slaughtered animal. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Meyn '067 and add the two conveyors arranged behind each other of Meyn '472, so as to affect quick and accurate movement of the slaughtered animals.

Referring to claims 29 and 58, Meyn '067 does not disclose the direction of movement of the first conveyor belt differs form that of the second conveyor belt. Meyn '472 further discloses the direction of movement of a first conveyor belt – 1 (counter clockwise) differs from that of a second conveyor belt – 2 (clockwise). Therefore it would have been obvious to one of ordinary skill in the art to take the device of Meyn '067 and add the conveyor belts moving in different directions of Meyn '472, so as to securely hold the slaughtered animal as it is being conveyed in the slot.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyn '067 in view of Meyn '472 as applied to claim 27 above, and further in view of Hobbel et al. Meyn '067 as modified by Meyn '472 does not disclose a first and second conveyor move at different speeds. Hobbel et al. does disclose two conveyors moving at different speeds – see for example column 3 lines 26-32 and figure 1. Hobbel et al. does not disclose the conveyors comprise conveyor belts but instead conveyor chains, but it would have been obvious to one of ordinary skill in the art to use a conveyor belt instead of a chain to affect the movement of the animal parts as a matter of design choice. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Meyn '067 and Meyn '472 and add the conveyors moving at differing speeds of Hobbel et al., so as to make the device adjustable for differing situations and processing conditions.

Response to Arguments

4. Regarding claims 1-6, 9, 12-13, 15-16 and 24-25, the Meyn reference US 5569067 does disclose a first conveyor – at 1-3, a transfer conveyor – at 5,7-10, and supply means – at 6,11,16,

to control which slaughtered animals or parts thereof are supplied into the slot and which parts are not supplied into the slot as seen in figure 1 and column 3 lines 64-67 and column 4 lines 1-19 which shows that the supply means – at 6,11,16 is adapted to place the part of the slaughtered animal in a particular position with respect to the first station with the gizzard located above item 6 and the rest of the entrails package located below item – 6, thereby controlling which portion of the slaughtered animal is received in the slot.

Regarding claims 31-36, 41-42, 45-46 and 53-54, the Meyn reference does disclose the discharge means – at 25-26, are controlled by a discharge control means – the controller that controls the conveyor – at 7-10, at a controllable rate which is independent from the rate with which the slaughtered animals or parts are supplied to the at least one slot – via items 1-3. As seen in figure 1 and columns 3-6, the supply means – at 1-3, is rotatably driven about a horizontal axis and the discharge means – at 25-26 are rotatably driven about a vertical axis and therefore are independently driven and controlled with respect to each other.

Regarding the 35 U.S.C. 103(a) rejections to claims 7-8, 10-14, 17-23, 26-30, 37-43, 46-52 and 55-58, applicant relies upon the arguments to the independent claims 1 and 31, therefore see above in this paragraph of this office action for the response to these arguments. Further, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DP

David Parsley
Patent Examiner
Art Unit 3643

PETER M. POON
SUPERVISORY PATENT EXAMINER

11/1/04